

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 7, 2003 ("Office Action"). Applicant respectfully requests reconsideration and favorable action in this case.

Section 103 Rejections

The Office Action rejects Claims 1-4, 6-12, 14-20, 22-25, and 34-38 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,416,468 to Baumann ("*Baumann*") in view of U.S. Patent 5,640,151 to Reis, et al. ("*Reis*"). Applicant respectfully traverses all rejections and assertions therein.

First, *Baumann* and *Reis*, even if considered in combination, fail to disclose each and every element of Claims 1-4, 6-12, 14-20, 22-25, and 34-38. For example, Independent Claim 1 recites, "in response to a polling event for one of the primary tags, the primary tag transmitting a query message for linked tags within an operational range of the primary tag." For the teaching of this limitation, the Office Action offers the interrogators 7₁, 7₂, etc. and the central station 40 of *Reis* and states, "it is well-known in the art of transmitting the polling signal from the interrogators 71, 72, ... 7c upon the request from the central station 40 to the tags 81-T, 82-T2, 8c-T." Office Action, Page 3. The cited interrogator, however, is not a primary tag as claimed. In particular, *Reis* discloses that interrogator 7 is "directly connected or connected over a network" to computer 40. Accordingly, interrogator 7 is not a tag and Applicants respectfully request allowance of Independent Claim 1 and its respective dependents Claims 2-4 and 6-7.

The Office Action has not shown a suggestion or a motivation in the references or in the knowledge generally available to one of ordinary skill in the art to combine the cited references. Nothing in *Baumann* or *Reis* suggests or motivates the proposed combination. The Office Action merely speculates that "[i]t would have been obvious to one of ordinary skill in the art" to combine *Baumann* with *Reis* "for performing the same function as desired and for providing a better system." Office Action, Page 3. *Reis* teaches transmitting request and commands to the tags 8 during a batch collection period for "locating, tracking, identifying or communicating with a tag." Col. 9, Lines 12-19; Col. 6, Lines 57-67. However, no where does *Baumann* disclose, suggest, or teach a need for transmitting a request from either the control facility 12 or field node 18 to any of the personal transmitter units (PTUs) 20. In fact, *Baumann* merely teaches that field

node 18 passively receives broadcasted signals from each PTU 20 in field area 16,¹ and if a signal is not received from one of the PTUs 20, field node 18 transmits an alert condition to control facility 12.² Therefore, Applicants respectfully request the Examiner withdraw the rejection of Claims 1-4, 6-12, 14-20, 22-25, and 34-38.

Furthermore, modifying *Baumann* as suggested by the Office Action would change the principle of operation of field node 18 and/or control facility 12 disclose in *Baumann*. If a “proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” M.P.E.P. §2143.01. The principle of operation of field node 18 and/or control facility 12 in *Baumann* is to passively receive broadcast signals from PTUs 20 and alert signals from field node 18, respectively,³ not to communicate request and commands to PTUs 20 for locating, tracking, identifying or communicating with PTUs. The design, construction, and use of field node 18 and/or control facility 12 as disclosed in *Baumann* that could be used with the tags 8 illustrated in *Reis* would require a substantial reconstruction and redesign of the elements in *Baumann*. Field node 18 and/or control facility 12 in *Baumann* would have to be redesigned to perform the request and command functions⁴ (transmitted to tags 8) disclosed in *Reis*. Therefore, for at least these reasons, Claims 1-4, 6-12, 14-20, 22-25, and 34-38 are allowable. Accordingly, Applicants respectfully request the Examiner withdraw the rejection of 1-4, 6-12, 14-20, 22-25, and 34-38.

Independent Claims 9, 17, 22, and 34 are allowable for analogous reasons. Claims 10-12 and 14-16 each depend from independent Claim 9 and are thus patentable over the cited art for at least the reasons discussed above with regard to Claim 9. Claim 18-20 each depend from independent Claim 17 and are thus patentable over the cited art, for example, for at least the reasons discussed above with regard to Claim 17. Claims 23-25 each depend from independent Claims 22 and are thus patentable over the cited art for at least the reasons discussed above with regard to Claim 22. Claims 35-38 each depend from independent Claim 34 and are thus patentable over the cited art for at least the reasons discussed above with regard to Claim 34. Applicants respectfully request reconsideration and allowance of these claims.

¹ Col. 3, Lines 27-30; Col. 4, Lines 64 to Col. 5, Line 1; Col. 7, Lines 25-29.

² Col. 3, Lines 42-47.

³ Col. 3, Lines 27-30; Col. 4, Lines 64 to Col. 5, Line 1; Col. 7, Lines 25-29.

⁴ ABST.

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Allowable Subject Matter

The Office Action has indicated that Claims 5, 13, 21, 26 and 27 are objected. They now depend from claims as shown above to be allowable, making this objection moot. Applicant notes with appreciation the allowance of Claims 28-33.

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CONCLUSION

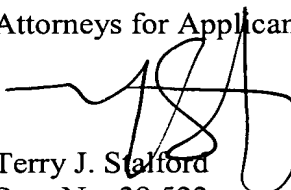
Applicant has made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicant respectfully requests full allowance of all the pending claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicant hereby requests a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

Applicant is submitting herewith a Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), and a check in the amount of \$665.00 is enclosed to cover for the Petition to Revive fee. The Examiner is authorized to charge any other fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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